



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2012-0385; FRL-9824-2]

Approval and Promulgation of Implementation Plans; Revised Format for
Materials Being Incorporated by Reference for Florida; Approval of Recodification
of the Florida Administrative Code; Correcting Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendments.

SUMMARY: On June 16, 1999, EPA published a final rule in the Federal Register approving a Florida State Implementation Plan (SIP) revision, submitted through the Florida Department of Environmental Protection (FDEP) on April 15, 1996. The submission related to miscellaneous changes and the recodification of the Florida Administrative Code (F.A.C.). In addition, the submittal also contained several regulations that were supposed to be removed from the SIP. EPA's June 16, 1999, action approved the miscellaneous rule revisions, repeals and corrections; however, it failed to ensure the regulatory text reflected all of the repeals. This correcting amendment corrects and clarifies errors in the regulatory language in paragraph (c) of EPA's June 16, 1999, final rule.

DATES: Effective on [insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION: Today's action corrects inadvertent errors in EPA's June 16, 1999, final rulemaking. Specifically, this correcting amendment clarifies that EPA's June 16, 1999, action approved the State's implementation plan revision that repealed F.A.C. rules 62-297.411 (DEP Method 1), 62-297.412 (DEP Method 2), 62-297.413 (DEP Method 3), 62-297.415 (DEP Method 5), 62-297.416 (DEP Method 5A), 62-297.417 (DEP Method 6) and, 62-297.423 (EPA Method 12-Determination of Inorganic Lead Emissions from Stationary Emission Units). The June 16, 1999, final rule approved the removal of the test method rules from the SIP. These rules were repealed because they were obsolete. Another rule change provided for the incorporation of the federally approved American Society for Testing and Materials (ASTM) methods. However, EPA's regulatory text did not properly indicate that the rules were repealed. This action corrects these inadvertent errors.

EPA has determined that today's actions fall under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action is unnecessary because today's action to correct inadvertent

regulatory text errors included with EPA's June 16, 1999, final rule are consistent with the substantive revisions to the Florida SIP described in the direct final rule addressing the miscellaneous revisions and the recodification of F.A.C. to make the SIP less complex and correct typographical errors. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction, or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the meaning of EPA's analysis or action addressing the recodification and miscellaneous revisions to the Florida SIP. EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d) (3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's action merely corrects inadvertent errors in the regulatory text of EPA's prior rulemaking for the Florida SIP. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely corrects an inadvertent omission in the regulatory text of EPA’s June 16, 1999, final rule addressing the recodification of the Florida SIP, and miscellaneous changes and imposes no additional requirements beyond those already imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely corrects an inadvertent omission in the regulatory text of EPA’s June 16, 1999, final rules addressing miscellaneous revisions and the recodification of F.A.C. to make the SIP less complex and to correct typographical errors, and does not impose any additional enforceable duty beyond that already required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule

merely corrects inadvertent errors in the regulatory text of EPA's June 16, 1999, final rule by removing certain repealed rules from the regulatory text, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,
Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic
compounds.

Dated: June 3, 2013.

A. Stanley Meiburg,

Acting Regional Administrator,

Region 4.

40 CFR part 52 is corrected by making the following correcting amendments:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart K – Florida

2. Section 52.520(c) is amended under Chapter 62-297 by removing the entries for “62-297.411”, “62-297.412”, “62-297.413”, “62-297.415”, “62-297.416”, “62-297.417” and “62-297.423”.

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